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BY BROWN, M.DAVIS, ELLIS,
MENARD, BOUCHER, NAVARRE,
KOPONEN, AND GOLL

1 IN THE HOUSE

2

HOUSE BILL NO. 293

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act increasing civil penalties and removing a cap
7 on total civil penalties that can be assessed for
8 certain oil discharges."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 46.03.758(b) is amended to read:

11 (b) No later than the 10th day after the convening of the Second
12 Session of the Sixteenth [TENTH] Alaska State Legislature, the depart-
13 ment shall submit to the legislature regulations establishing the
14 following schedule of fixed penalties for discharges of oil:

15 (1) Subject to (2) of this subsection, the penalties for
16 the following categories of receiving environments may not exceed

17 (A) \$50 [\$10] per gallon of oil which enters an anad-
18 romous stream or other freshwater environment with significant
19 aquatic resources;

20 (B) \$25 [\$2.50] per gallon of oil which enters an
21 estuarine, intertidal, or confined saltwater environment; and

22 (C) \$10 [\$1] per gallon of oil which enters an uncon-
23 fined saltwater environment, public land, or freshwater environ-
24 ment without significant aquatic resources.

25 (2) For discharges of oil which are caused by the gross
26 negligence or intentional act of the discharger, or when the court
27 finds that the discharger did not take reasonable measures to contain
28 and clean up the discharged oil, the penalty shall be determined by
29 multiplying the penalty established under (1) of this subsection by a

1 factor of five.

2 * Sec. 2. AS 46.03.758(e) is amended to read:

3 (e) If [AFTER APRIL 19, 1978, IF] a discharge of oil in excess
4 of 18,000 gallons not permitted under applicable state and federal law
5 occurs within the territorial jurisdiction of the state, or into or
6 upon the adjacent outer continental shelf of the state, the following
7 persons, in addition to the person causing or permitting the dis-
8 charge, are jointly and severally liable to the state, in a civil
9 action, for the full amount of penalties established in the regu-
10 lations adopted under this section: [, OR \$100,000,000, WHICHEVER IS
11 LESS,]

12 (1) if the discharge occurs from any commercial or indus-
13 trial facility other than a vessel or offshore platform, the owner,
14 lessee or permittee, and operator of the facility;

15 (2) if the discharge occurs from a vessel,

16 (A) the owner and operator of the vessel; and

17 (B) the owner of the oil carried as cargo on the
18 vessel at the time the vessel was loaded, if the loading occurred
19 within the territorial jurisdiction of the state, or at a deep-
20 water port or other offshore storage facility adjacent to the
21 state; however, if the owner of the oil temporarily transfers
22 ownership of the oil to another person, and the transfer has the
23 purpose or effect of evading the vicarious liability imposed by
24 this section, the transferor will be considered the owner of the
25 oil for the purposes of this subsection; and

26 (3) if the discharge occurs from an offshore platform, the
27 lessee or permittee of the tract or acreage upon which the platform is
28 situated, and the operator of the platform.

29 * Sec. 3. APPLICABILITY. (a) AS 46.03.758(b), as amended by sec. 1 of

1 this Act, applies to a discharge of oil that occurs on or after the effec-
2 tive date of the regulations required to be submitted to the legislature
3 under AS 46.03.758(b), as amended by sec. 1 of this Act. Regulations
4 adopted under AS 46.03.758 remain in effect until superseded by regulations
5 adopted under AS 46.03.758, as amended by sec. 1 of this Act.

6 (b) AS 46.03.758(e), as amended by sec. 2 of this Act, applies to a
7 discharge of oil that occurs on or after the effective date of this Act.